IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY SECOND DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR

and
THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 11572 of 2004

Between:
1 E.Neeladri Rao, S/o.Late Kameswara Rao,
R/o.H.No.71-31-1203, Jai Andhra Colony, Kakarliva Saindi
Gandhaigram, Visakhapatnam.
2 Reddy Narasimha Naidu, S/o.Demudu
R/o.Village Marrivlasa Pathavalasa (P) K.Kotapadu(M),
Visakhapatnam.
3 B.Satyanarayana, s/o.Late Demudu
R/o.N.G.Nagar (P),Devarapalli (M) Visakhapatnam.

..... PETITIONERS

AND

1 Eastern Naval Command, INS circar Visakhapatnam.rep.by its commanding officer.
2 Govt. of India, Ministry of Personnel P.G.&Pensions, Dept., of personnel and Training rep. by its secretary, Visakhapatnam.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the action of the 1st respondent in not conferring the temporary status in according with the statutory Mess rules and in accordance with office Memorandum No.51016/2/90-Ess(c) dt.10-9-1993 as is illegal and arbitrary and set aside the order in O.A.No.5/2003 dated 5-3-2004 on the file of the Central Administrative Tribunal, Hyderabad Bench and consequently direct the 1st respondent to confer temporary status and regularise the service of the petitioners in accordance with aforesaid office Memorandum.

Counsel for the Petitioners: MR.J.RAMACHANDRA RAO

Counsel for the Respondents: MR.KANTHI.NARAHARI.

The Court made the following :

ORDER (per J.C.,J):

Aggrieved by the order dated 05.03.2004 made in O.A.No.5 of 2003, on the file of the Central Administrative Tribunal, Hyderabad Bench, the unsuccessful applicants therein preferred the present writ petition.

The above mentioned O.A. was filed praying for a declaration that the action of the respondents in not conferring temporary status and thereby not regularizing the applicants services in accordance with the Official Memorandum No.51016/2/90-Estt-(C), dated 10.09.1993 as illegal, arbitrary and unconstitutional.

The case of the appellants is that they were appointed as 'Civilian Bearers' of the Naval Hostel at Visakhapatnam, maintained by the Eastern Naval Command. According to them, they were appointed between
1984-1993 and still working as such. The proceedings dated 10.09.1993, referred to above, were issued by the Ministry of Personnel P.G. and Pensions, Department of Personnel and Training. The substance of the said proceedings is that the casual employees, who have rendered one year of continuous service in Central Government Offices other than the Department of Telecom, Postal and Railways, may be regularised under and in accordance with a scheme appended to that proceedings for grant of temporary status.

It is not very clear from the above mentioned proceedings whether the scheme was intended to be made applicable to the Defence services. Even otherwise, whether the employment in question in the present writ petition of the petitioners, is an employment under the Union of India or not is the question. The Central Administrative Tribunal, on perusal of the material placed, including the counter-affidavit filed by the respondents herein, recorded a finding that the petitioners were employed by the Officers of the Indian Navy from out of the private fund and not out of any public fund.

The learned counsel for the petitioners vehemently argued that the above referred finding is not justified, in view of the fact that the employer of the petitioner is a 'Mess', governed by the Mess Rules (for short 'the Rules) relating to Eastern Naval

Command Officers Mess. In fact, a copy of the Rules is placed before us. Nothing is brought to our notice to establish that the Rules have any statutory backing. On the other hand, the examination of the Rules indicates that it is a voluntary organization, meant for the recreation of the members therein. The membership is essentially for the members of the Indian Navy. However, the Rules do recognize (Rule 6(4) of the Rules) that certain civilians granted Honarary Ranks in the Indian Navy can also become Honourary Members, apart from the Officers of Foreign Naval Establishments. It also appears from the above mentioned Rules that the members are required to pay certain subscriptions for using the facilities extended by the Mess and also pay for the food and other material consumed by the Members. In substance, the legal status of the above mentioned Mess does not appear to be anything different from that of any other club, known to the general public.

At the cost of the repetition we repeat that nothing is brought to our notice that this club enjoys any special status and the Rules enjoyed the status of statutory Rules.

In the circumstances, the dispute, if any, between the parties regarding their relationship with the employer is not amenable to the jurisdiction of Central Administrative Tribunal and in our view the Tribunal rightly dismissed the O.A., we do not see any interference with the same. It is open for the petitioners to pursue their remedies as are available under the law.

The writ petition is accordingly dismissed. No costs.

22.07.2004

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to

1 The Commanding Officer, Eastern Naval Command, INS circar Visakhapatnam.

2 The Secretary, Govt. of India, Ministry of Personnel P.G.& Pensions, Dept., of personnel and Training, Visakhaptnam
3 Two CD Copies